

USDC SDNY DOCUMENT ELECTRONICALLY FILED DOC #: DATE FILED: 4/4/2024
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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DAMON JONES, on behalf of himself and all	:	
others similarly situated,	:	
	:	
Plaintiff,	:	
	:	23-CV-7756 (VEC)
-against-	:	
	:	<u>ORDER</u>
	:	
LEE & LOW BOOKS, INC.,	:	
	:	
Defendant.	:	
-----X		

VALERIE CAPRONI, United States District Judge:

WHEREAS on March 27, 2024, Plaintiff filed a proposed order to show cause why default judgment should not be entered and supporting papers, *see* Dkts. 24–26;

WHEREAS in those papers, Plaintiff sought an order certifying a class and sub-classes under “Fed. R. Civ. P. b)(2) and/or (b)(3),” *see* Dkt. 26;

WHEREAS the Court presumes that Plaintiff intended to reference to Rule 23(b)(2) and (b)(3) of the Federal Rules of Civil Procedure;

WHEREAS Plaintiff has not moved for class certification; and

WHEREAS when a plaintiff “has failed to file a motion for class certification pursuant to Rule 23, the Court will . . . only consider default judgment for the named [p]laintiff.” *Winegard v. Crain Commc’ns, Inc.*, No. 20-CV-01509 (AJN), 2021 WL 1198960, at \*2 (S.D.N.Y. Mar. 30, 2021).

IT IS HEREBY ORDERED that the relief requested through the proposed order and supporting papers at docket entries 24 through 26 is DENIED without prejudice.

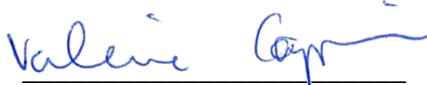
IT IS FURTHER ORDERED that, by not later than **Thursday, April 11, 2024**, Plaintiff must file a letter indicating whether he intends to make a proper motion to certify a class. The letter must specify whether he will move to certify a class under Rule 23(b)(2) or (b)(3). If Plaintiff wishes to move to certify a class, any such motion must be filed not later than **Friday, April 19, 2024**.

IT IS FURTHER ORDERED that, if Plaintiff chooses to pursue default judgment solely on his own behalf, he must file an amended proposed order to show cause and supporting papers by no later than **Thursday, April 11, 2024**.

IT IS FURTHER ORDERED that Counsel for Plaintiff is admonished to review filings more carefully before filing them.

**SO ORDERED.**

**Date: April 4, 2024**  
**New York, New York**

  
**VALERIE CAPRONI**  
**United States District Judge**